REMARKS

New claims 27 and 28 are supported by the text on page 18, line 30 to page 19, line 31 and Table 1.

The Applicants affirm the election of Group I, claims 1-17.

Claim 15 was objected due to an obvious typographical error. This objection should be withdrawn because claim 15 has been amended as suggested by the Examiner.

Claims 1-5, 11, 12 and 16 were rejected under 35 USC 102(a/e) by WO 01/14256 A1 (WO '256). This rejection is respectfully traversed.

Foremost, WO '256 does ***not*** qualify as a 102(e) prior art because the international filing date of WO '256 is August 16, 2000, which is *before* November 29, 2000. See MPEP 706.02(a), which states:

> Revised 35 U.S.C. 102(e) has two separate clauses, namely, 35 U.S.C. 102(e)(1) for **publications** of patent applications and 35 U.S.C. 102(e)(2) for U.S. patents. 35 U.S.C. 102(e)(1), in combination with amended 35 U.S.C. 374, created a new category of prior art by providing prior art effect for certain **publications** of patent applications, including certain international applications, as of their effective United States filing dates (which will include certain international filing dates). Under revised 35 U.S.C. 102(e), *an international filing date which is on or after November 29, 2000 is a United States filing date if the international application designated the United States and was published by the World Intellectual Property Organization (WIPO) under the Patent Cooperation Treaty (PCT) Article 21(2) in the English language.* Therefore, the prior art date of a reference under 35 U.S.C. 102(e) may be the international filing date (if all three conditions noted above are met) or an earlier U.S. filing date for which priority or benefit is properly claimed. [Italics added.]

Thus, WO '256 could only even qualify as a 35 USC 102(a) reference (but not a 102(b) or 102(e) reference) because it was published on March 1, 2001, which is before the filing date of January 29, 2002, of the pending application. The Applicants reserve the right to file a Rule 131 Declaration later to antedate WO '256.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). WO '256 fails to teach either expressly or inherently "the second stage intake water having a total salt concentration of 55 to 90% of that of the feed water" recited in claim 1. Thus, the anticipation rejection of 1-5, 11, 12 and 16 should be fail.

Claims 6-10 were rejected as being obvious over WO '256. Claims 13-15 and 17 were rejected as being obvious over WO '256 in view of WO 99/16714 (WO '714). Claims 13-15 and 17 were rejected as being obvious over WO '256 in view of WO '714, further in view of EP 0 709 130 A1 (EP '130). These rejections are respectfully traversed.

"To establish a *prima case* of obviousness, [one of the] three basic criteria [that] must be met … [is that] the prior art reference (or references when combined) must teach or suggest all the claim limitations." See MPEP 2143 under the heading "ESTABLISHING A *PRIMA FACIE* CASE OF OBVIOUSNESS." WO '256, WO '714 and EP '130 combined do not teach or suggest the limitation "the second stage intake water having a total salt concentration of 55 to 90% of that of the feed water" recited in claim 1. Thus, the obviousness rejection must fail.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952**, reference No. 360842008300. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 8, 2004

Respectfully submitted,

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